

AMENDED IN ASSEMBLY JANUARY 4, 2006

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 828

Introduced by Assembly Member Cohn

February 18, 2005

An act to amend Section ~~66025.3 of the Education~~ 1204.5 of the Penal Code, relating to ~~public postsecondary education; criminal proceedings.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 828, as amended, Cohn. ~~Public postsecondary education; tuition and fee waiver for military veterans; Criminal proceedings; reports.~~

Under existing law, a judge in any criminal action may not read or consider any written report of a law enforcement officer or witness, or other information or affidavit, after a complaint or accusatory pleading is filed but before a plea, finding, or verdict is made, without the defendant's consent, except as specified.

This bill would add another exception to that prohibition when the complaint or accusatory pleading alleges domestic violence and the judge is determining whether to issue a protective order.

~~Existing law prohibits any campus of the University of California, the California State University, or the California Community Colleges from charging any tuition or fees to certain resident dependents or survivors of veterans, including any child of any veteran of the United States military who has a service-connected disability, has been killed in service, or has died of service-connected disability, where the annual income of the child, including the value of any support received from a parent, does not exceed the national poverty level, or~~

~~from charging any undergraduate student who is a recipient of a Congressional Medal of Honor, or any undergraduate student who is a child of a recipient of a Congressional Medal of Honor and who is no more than 27 years old. These provisions apply to the University of California only to the extent that the Regents of the University of California act, by resolution, to make them applicable.~~

~~This bill would further provide that any person who is honorably serving in, or has been honorably discharged from, the armed forces of the United States, and any person who is a member of the California National Guard, the State Military Reserve, or the Naval Militia, and who is, or previously has been, called to active service, as defined, would not be subject to tuition or fees at any campus of the University of California, the California State University, or the California Community Colleges if he or she is a California resident, as defined. Pursuant to existing law, these provisions would only apply to the University of California to the extent that the regents make them applicable by resolution.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1204.5 of the Penal Code is amended to
2 read:
3 1204.5. (a) In any criminal action, after ~~the filing of any a~~
4 complaint or other accusatory pleading *is filed* and before a plea,
5 finding, or verdict of guilty, ~~no judge shall the judge shall not~~
6 read or consider any written report of any law enforcement
7 officer or witness to any offense, any information reflecting the
8 arrest or conviction record of a defendant, or any affidavit or
9 representation of any kind, verbal or written, without the
10 defendant's consent given in open court, except as *follows*:
11 provided
12 (1) *As provided* in the rules of evidence applicable at the trial;
13 ~~or as provided.~~
14 (2) *As provided* in affidavits in connection with the issuance
15 of a warrant or the hearing of any law and motion matter, or in
16 any application for an order fixing or changing bail, or a petition
17 for a writ.

1 (3) *When the complaint or accusatory pleading alleges an*
2 *offense constituting “domestic violence” as that term is defined*
3 *in Section 6211 of the Family Code, and the judge is determining*
4 *whether to issue a protective order, as defined in Section 6218 of*
5 *the Family Code.*

6 (b) This section does not preclude a judge, who is not the
7 preliminary hearing or trial judge in the case, from considering
8 any information about the defendant for the purpose of that judge
9 adopting a pre-trial sentencing position or approving or
10 disapproving a guilty plea entered pursuant to Section 1192.5, if
11 all of the following occur:

12 (1) The defendant is represented by counsel, unless he or she
13 expressly waives the right to counsel.

14 (2) Any information provided to the judge for either of those
15 purposes is also provided to the district attorney and to the
16 defense counsel at least five days prior to any hearing or
17 conference held for the purpose of considering a proposed guilty
18 plea or proposed sentence.

19 (3) At any hearing or conference held for either of those
20 purposes, defense counsel or the district attorney is allowed to
21 provide information, either on or off the record, to supplement or
22 rebut the information provided pursuant to paragraph (2).

23 ~~SECTION 1. Section 66025.3 of the Education Code is~~
24 ~~amended to read:~~

25 ~~66025.3. (a) No campus of the University of California, the~~
26 ~~California State University, or the California Community~~
27 ~~Colleges shall charge any mandatory systemwide tuition or fees,~~
28 ~~including enrollment fees, registration fees, differential fees, or~~
29 ~~incidental fees, to any of the following:~~

30 ~~(1) Any dependent eligible to receive assistance under Article~~
31 ~~2 (commencing with Section 890) of Chapter 4 of Division 4 of~~
32 ~~the Military and Veterans Code.~~

33 ~~(2) (A) Any child of any veteran of the United States military~~
34 ~~who has a service-connected disability, has been killed in service,~~
35 ~~or has died of a service-connected disability, where the annual~~
36 ~~income of the child, including the value of any support received~~
37 ~~from a parent, does not exceed the national poverty level as~~
38 ~~defined in subdivision (c).~~

~~(B) The Department of Veterans Affairs may determine the eligibility for fee waivers for a child described in subparagraph (A):~~

~~(3) Any dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty, and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. For the purposes of this paragraph, "active service of the state" refers to a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code.~~

~~(4) (A) Any undergraduate student who is a recipient of a Medal of Honor, commonly known as a Congressional Medal of Honor, or any undergraduate student who is a child of a recipient of a Medal of Honor and who is no more than 27 years old, if both of the following requirements are met:~~

~~(i) His or her annual income, including the value of any support received from a parent, does not exceed the national poverty level as defined in subdivision (c).~~

~~(ii) The recipient of the Medal of Honor who is or was the parent of the undergraduate student is, or at the time of his or her death was, a California resident as determined pursuant to Chapter 1 (commencing with Section 68000) of Part 41.~~

~~(B) The Department of Veterans Affairs shall determine the eligibility of any applicant for a fee waiver under this paragraph.~~

~~(5) Any person who is honorably serving in, or has been honorably discharged from, the armed services of the United States. The Department of Veterans Affairs shall determine whether an individual meets the requirements of this paragraph.~~

~~(6) Any person who is a member of the California National Guard, the State Military Reserve, or the Naval Militia, and who is, or who has previously been, called to active service within the meaning of Section 146 of the Military and Veterans Code. The Military Department shall determine whether an individual meets the requirements of this paragraph.~~

~~(b) A person who is eligible for a waiver of tuition or fees under this section may receive a waiver for each academic year during which he or she applies for that waiver, but an eligible~~

1 ~~person may not receive a waiver of tuition or fees for a prior~~
2 ~~academic year.~~

3 ~~(c) As used in this section, the “national poverty level” is the~~
4 ~~poverty threshold for one person, as most recently calculated by~~
5 ~~the Bureau of the Census of the United States Department of~~
6 ~~Commerce.~~

7 ~~(d) The waiver of tuition or fees under this section shall apply~~
8 ~~only to a person who is determined to be a resident of California~~
9 ~~pursuant to Chapter 1 (commencing with Section 68000) of Part~~
10 ~~41.~~

11 ~~(e) This section shall not apply to a dependent of a veteran~~
12 ~~within the meaning of paragraph (4) of subdivision (a) of Section~~
13 ~~890 of the Military and Veterans Code.~~

14 ~~(f) No provision of this section shall apply to the University of~~
15 ~~California except to the extent that the Regents of the University~~
16 ~~of California, by appropriate resolution, make that provision~~
17 ~~applicable.~~